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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,015	11/30/2001	Peter J. Hill	884.0002USU	3883

7590 12/23/2003
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EXAMINER

CAMPBELL, THOR S

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/998,015

Applicant(s)

HILL ET AL.

Examiner

Thor S. Campbell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-65 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

Claims 66-74 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in Paper No. 9.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 6-9, 12, 14-19, 25-35, 38-53, and 56-65 rejected under 35 U.S.C. 102(e) as being anticipated by Kreithemier et al. (US 6216911).

Kreithemier discloses a fluid delivery system comprising: a first reservoir 836 having a first volume; a second reservoir having a greater second volume 800 and connected to said first

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reservoir; a pump device 100, manual or electric, operatively connected to said first reservoir and said second reservoir; a heating device 816 in thermal communication with said first reservoir and in substantial thermal isolation from said second reservoir; and a delivery device 828 connected to said first reservoir, wherein said pump device selectively causes fluid to flow from said second reservoir to said first reservoir, from said first reservoir to said delivery device and from said delivery device to the atmosphere, wherein said delivery device comprises a downwardly directed spout wherein said fluid is dispensed at a temperature between about 30.degree. C. to about 60.degree. C, further comprising an electrical component PCB 864 that controls said heating device, wherein said electrical component is in fluid isolation from said first reservoir and said second reservoir further comprising a thermostat 840 that controls said heating device, wherein said thermostat is in fluid isolation from said first reservoir and said second reservoir, wherein said electrical component has a manual power control switch, wherein said electrical component has an automatic power shut off switch, wherein said automatic shut off switch triggers after a period of time has elapsed, and further wherein the second reservoir is removable from said fluid delivery system (column 5, lines 35-40), and further wherein said first reservoir comprises a heat sink, and wherein said heat sink is made of aluminum (column 6, lines 4-32), and further, a housing 108 surrounding said first reservoir and said heating device, and forming a substantially water tight seal around said first reservoir and said heating device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 10-11, 13, 20-24, 36, 37, 54, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kreithemier et al. (US 6216911) in view of Meeks (US 3749880).

Kreithemier discloses a fluid delivery system comprising: a first reservoir 836 having a first volume; a second reservoir having a greater second volume 800 and connected to said first reservoir; a pump device 100, manual or electric, operatively connected to said first reservoir and said second reservoir; a heating device 816 in thermal communication with said first reservoir and in substantial thermal isolation from said second reservoir; and a delivery device 828 connected to said first reservoir, wherein said pump device selectively causes fluid to flow from said second reservoir to said first reservoir, from said first reservoir to said delivery device and from said delivery device to the atmosphere, wherein said delivery device comprises a downwardly directed spout wherein said fluid is dispensed at a temperature between about 30.degree. C. to about 60.degree. C, further comprising an electrical component PCB 864 that controls said heating device, wherein said electrical component is in fluid isolation from said first reservoir and said second reservoir further comprising a thermostat 840 that controls said heating device, wherein said thermostat is in fluid isolation from said first reservoir and said second reservoir, wherein said electrical component has a manual power control switch, wherein said electrical component has an automatic power shut off switch, wherein said automatic shut off switch triggers after a period of time has elapsed, and further wherein the second reservoir is removable from said fluid delivery system (column 5, lines 35-40), and further wherein said first reservoir comprises a heat sink, and wherein said heat sink is made of aluminum (column 6, lines

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4-32), and further, a housing 108 surrounding said first reservoir and said heating device, and forming a substantially water tight seal around said first reservoir and said heating device.

Additionally, Kreithemier discloses heating device 816 can take varied forms in order to increase the heat transfer to the fluid (column 6, lines 4-32). Kreithemier does not explicitly disclose said first reservoir is a coiled tube, said coiled tube is flat, said coiled tube is wound about five times, wherein said heating device comprises a heating wire in contact with said heat sink, wherein said heat sink has channels formed therein for housing at least a portion of said heating wire.

Meeks discloses a fluid heater including first and second reservoir, said first reservoir is a coiled tube, said coiled tube is flat, said coiled tube is wound "about" five times, and a heating device said heating device comprises a heating wire in contact with a heat sink, said heat sink having channels formed therein for housing at least a portion of a heating wire. Since Kreithemier discloses it to be known to use a "varied" shape rather than a straight shape for the heating device, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Kreithemier to use the coiled heating device arrangement of Meeks to improve the heat transfer properties of the device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thor S. Campbell whose telephone number is 703-306-9042. The examiner can normally be reached on Tue-Fri 5:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look can be reached on 703-308-1044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9302.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

TSC
12/17/03



**THOR CAMPBELL
PATENT EXAMINER**